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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/17/2003

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EXAMINER

ALEJANDRO, RAYMOND

ART UNIT

PAPER NUMBER

1745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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30 DAYS

02/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/738400

EXAMINER

ART UNIT

PAPER

20070131

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on 12/21/06 cancelling all of originally rejected claims 1-20 in favor of new claims 21-43 is non-responsive (MPEP § 821.03 Claims for Different Invention Added After an Office Action). Any amendment canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention (by original presentation) is non-responsive (MPEP § 821.03). The new claims are not readable on the elected invention because the scope of the claims pending for immediate examination has been substantially modified to the point that it now encompasses a different invention. (i.e. the original claims were directed to a lithium electrochemical cell system per se comprising three specifically distinct lithium-based cells while the pending claims (new claims), as now presented, are drawn to single (only one) lithium based cell per se). As best understood, the subject matter of the original claims and the pending claims are related as combination-subcombination. The combination being the lithium electrochemical cell system including three three specifically distinct lithium-based cells and the subcombination being any one of the single (only one) lithium based cell per se.

Moreover, the general policy of the Office is not to permit the applicant to shift to claiming another invention after an election (by original presentation) is once made and action given on the elected subject matter. When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP § 821.03 (See MPEP 819 [R-3] Office Generally Does Not Permit Shift).

As stated in MPEP and set forth by 37 CFR 1.145. Subsequent presentation of claims for different invention: If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144. In this specific case, applicant's amendment amending/canceling all claims drawn to the elected invention and presenting only claims drawn to the nonelected invention should not be entered. Such an amendment is nonresponsive (See MPEP 821.03 [R-3] Claims for Different Invention Added After an Office Action).

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

RAYMOND ALEJANDRO
PRIMARY EXAMINER

Raymond Alejandro
Primary Examiner
Art Unit: 1745